

NEW YORK STATE SUPREME COURT
SENECA COUNTY

SHIRLEY F. SOBCZAK,

Petitioner-Objector,

and

BARRY PORSCH,

Petitioner-Aggrieved Candidate,

v.

MICHAEL HAGADORN, JENNAFER HEFFERNAN,
MELODY REYNOLDS,

Respondents-Committee Members,

and

THE SENECA COUNTY BOARD OF ELECTIONS,

Respondent.

Index No.: 51345-2017

SANTIAGO BURGER LLP

SO ORDERED SUBPOENA AD TESTIFICANDUM

Personal Appearance Required for Testimony.

To: Angelo D. Bianchi
1715 County House Road
Waterloo, NY 13165

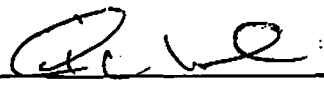
WE COMMAND YOU, pursuant to New York Civil Practice Law and Rules (CPLR) § 2301 & 2301 to lay all other business and excuses aside and appear before the Honorable William K. Taylor, Seneca County Supreme Court, 48 West Williams

Street, Waterloo, New York, on the 7th day of August, 2017 at 9:30 A.M. and at any recessed or adjourned date, to give testimony at an examination before trial as a witness with respect to all matter material and necessary in the prosecution or defense in the above-referenced proceeding.

Pursuant to CPLR 3101(a)(4), the circumstances and reasons your testimony is sought or required is as follows: As set forth in the Verified Petition in the above captioned matter, a copy of which is attached as Exhibit 1, this action is a proceeding pursuant to NY Election law Article 16 for invalidation of a purported Opportunity to Ballot Petition filed with Respondent Board of Elections on or about July 20, 2017. Petitioner has duly filed written objections and specifications and objections in support of same, alleging various infirmities including but not limited to notarial fraud and/or undue influence. As the notary public whose signature appears on the purported petition, your testimony is relevant and necessary to this proceeding.

PLEASE TAKE NOTICE THAT failure to comply with this subpoena is punishable as a contempt of Court and may make you liable to the person on whose behalf this subpoena was issued.

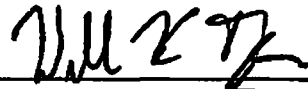
Dated: August 2, 2017
Pittsford, New York


Michael A. Burger
SANTIAGO BURGER LLP
Attorneys for Petitioners
1250 Pittsford Victor Road
Building 100, Suite 190
Pittsford, New York 14534
Tel: (585) 563-2400

This subpoena shall be served in the same manner as directed in the annexed Order to Show Cause for service upon a party and such service shall be effected no later than August 3, 2017.

So Ordered this 2nd day of August, 2017 at Rochester, New York.

Enter.

A handwritten signature in black ink, appearing to read 'W. K. Taylor', written over a horizontal line.

HON. WILLIAM K. TAYLOR
JUSTICE OF THE SUPREME COURT

NEW YORK STATE SUPREME COURT
SENECA COUNTY

SHIRLEY F. SOBCZAK,

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and

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SANTIAGO BURGER LLP

VERIFIED PETITION

**FOR INVALIDATION OF AN OPPORTUNITY TO BALLOT PETITION
UNDER ELECTION LAW ARTICLE 16**

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioners, SHIRLEY F. SOBCZAK and BARRY PORSCH, by their attorneys
SANTIAGO BURGER LLP, respectfully allege, upon information and belief that:

1. Petitioner-Objector SHIRLEY F. SOBCZAK, a duly qualified registered

voter and enrollee of the Working Families Party, resides at 53 Washington Street, Apt. 1, Waterloo, NY 13165, and is entitled to vote for the public office of in the Primary Election to be held on the 12th day of September, 2017.

2. Petitioner-Aggrieved Candidate BARRY PORSCH, a duly qualified candidate for Seneca County District attorney, nominated, designated, and/or authorized by the Working Families Party to run on their line at the September 12, 2017 Primary Election. Mr. Porsch resides at 16 Leland Drive, Seneca Falls, New York 13148, and is an aggrieved candidate under Election Law section 16-102.

3. Respondent Board of Election is charged with the responsibility of the supervision of the conduct of official elections held in Seneca County, including the duties of receiving and filing Opportunity to Ballot Petitions for public office in political subdivisions located entirely within Seneca County, the review and determination of Objections and Specifications of Objections to such Opportunity to Ballot Petitions, notification of a determination of noncompliance, maintaining the permanent personal voter registration poll records of voters and official maps for all election districts located within Seneca County, and the preparation of official Primary, General and Special Election ballots for use in Seneca County.

4. Upon information and belief, on or about July 20, 2017, a purported Opportunity to Ballot Petition was filed with Respondent Board of Elections purporting to purporting to allow an undesignated candidate or candidates to be written in and nominated for election to the Office of the Seneca County District Attorney on the ballot's Working Families Party Line in the Primary Election to be

held on the 12th day of September, 2017 ("Opportunity to Ballot Petition").

5. Pursuant to Election Law Section 6-154, on or about July 27, 2017, Petitioner-Objector did file written objections to the foregoing purported Opportunity to Ballot Petition of the Working Families Party for the public office of the Seneca County District Attorney with Respondent Board of Elections.

6. Also pursuant to Election Law section 6-154, Specifications of Objections in support of the written objections to the foregoing purported Opportunity to Ballot Petition were timely filed with Respondent Board of Elections. It is respectfully requested that the Objections and Specifications of Objections be incorporated herein, and hereby are referred to and made a part hereof, as though fully set forth herein, upon same being filed. A copy of such Specifications of Objections are annexed hereto as Exhibit 1.

7. Upon information and belief, Respondent Board of Elections has overruled one or more of the aforesaid Objections and Specifications of Objections.

8. Some of the allegations in the Specifications of Objections, including without limitation notarial fraud and/or undue influence, must of necessity come before this Court for determination.

9. The attention of the Court is respectfully drawn to Election Law Section 16-102 wherein it is provided that a proceeding with respect to a petition for a Primary Election shall be instituted within fourteen (14) days after the last day to file the petitions for such Primary Election. The last day to file the petitions for such Primary Election was July 21, 2017. Thus, the instant proceeding must be

instituted on or before August 3, 2017.

10. Petitioners respectfully allege that the Objections and Specifications of Objections filed with Respondent Board of Elections to the purported Opportunity to Ballot Petition are valid and proper objections, and respectfully requests that the Court issue the accompanying Order to Show Cause so that this proceeding may be commenced in a timely fashion.

11. Due to the expedited nature of election law proceedings and the dictates of the political calendar, extraordinary service of process is necessary to meet the applicable deadlines. Similarly, a temporary restraining order is necessary to prevent the printing of ballots before the courts are able to rule.

12. Some of the matters raised in the said Specifications of Objections are exclusively within the jurisdiction of this Court and should be heard and determined by this Court.

13. Upon information and belief, the aforesaid alleged Opportunity to Ballot Petition filed by, or on behalf of, the Working Families Party is insufficient, ineffective, false, fraudulent, and invalid, does not conform to the provisions of the Election Law and other Laws of the State of New York, and the Rules and Regulations of the Board, and is null and void by reason of the facts and allegations set forth herein, including but not limited to the Objections and Specifications of Objections incorporated by reference herein, and Respondent Board of Elections should be restrained and enjoined from permitting the write in of an undesignated candidate or candidates upon the Working Families Party line of the official ballot

for the Primary Election to be held on the 12th day of September, 2017.

14. Upon information and belief, the purported Opportunity to Ballot Petition of the Working Families Party is invalid for the reasons set forth in the objections and Specifications of Objections and/or that:

- (a) the petition does not contain the minimum number of required valid signatures;
- (b) some of the signers were not registered from the addresses stated in the petition;
- (c) some of the signatures were not personally signed by the persons whose names appear upon the petition, but their names were signed by others;
- (d) the signatures were obtained by fraud, duress, and/or undue influence;
- (e) signatures have been altered;
- (f) signatures have been forged;
- (g) signers are not enrolled as in the proper political party;
- (h) notaries public failed to properly administer oaths or comply with appropriate procedures when taking signatures;
- (i) the Opportunity to Ballot Petition is permeated with fraud; and/or
- (j) the Opportunity to Ballot Petition is invalid on other

grounds which will be established at the hearing of this application.

15. Notary Angelo Bianchi and Candidate Joseph Sapio are close friends and political allies.

16. Attached as Exhibit 2 is the sworn affirmation of [REDACTED] dated July 26, 2017, a signatory to the purported Opportunity to Ballot petition, which is incorporated herein by specific reference. [REDACTED] was not sworn by the notary in connection with the purported Opportunity to Ballot petitioning process.

17. Attached as Exhibit 3 is the sworn affirmation of [REDACTED] dated July 26, 2017, a signatory to the purported Opportunity to Ballot petition, which is incorporated herein by specific reference. [REDACTED] was not sworn by the notary in connection with the purported Opportunity to Ballot petitioning process.

18. Attached as Exhibit 4 is the sworn affirmation of [REDACTED] dated July 27, 2017, with two attachments:

- a. the 2009 absentee ballot application of [REDACTED] a purported signatory to the purported Opportunity to Ballot petition; and
- b. a copy of the purported Opportunity to Ballot petition countersigned by [REDACTED]

which together are incorporated herein by specific reference.

19. [REDACTED] is mentally incapacitated and unable to comprehend an oath. Messrs. Bianchi and Sapio capitalized on [REDACTED] and

his disabilities for their own political goals rather than to empower Mr. Paradise.

20. Messrs. Bianchi and Sapio have used and subverted Mr. Paradise's true will to further their own designs.

21. Fraud and deception permeated Mr. Bianchi and Mr. Sapio's Opportunity to Ballot petitioning process and did not accurately inform signatories of the nature of the Opportunity to Ballot petitioning process.

22. To the extent it allowed the infirmities referenced herein, the Respondent Board of Elections' determination was arbitrary, capricious, and in violation of the provisions of the Election Law so as to be reviewable pursuant to Election Law Section 16-102.

23. In accordance with prior decisions of this and other courts, whose decisions are controlling, Petitioner retains the right to submit proof establishing invalidity of any and all signatures and sheets on the purported Opportunity to Ballot Petition, as well as the Opportunity to Ballot Petition itself, and the ineligibility of a signatory, committee member, notary, witness, and/or an undesignated candidate or candidates. Petitioner intends to exercise such right.

24. Petitioners request leave and reserves their respective rights to submit upon the argument and hearing of this application, evidence by way of affidavits, testimony, and documentary proof to substantiate and support this application.

25. Petitioners request that Respondent Board of Elections produce upon the argument and hearing of this application the aforesaid Opportunity to Ballot Petition, with cover sheet and any amended cover sheet(s), identification number

application form and any other documents in support of or related to the designation and/or nomination of an undesignated candidate or candidates to be written in and nominated for election to the Office of the Seneca County District Attorney on the ballot in the Primary Election to be held on the 12th day of September, 2017; together with the Objections and Specifications of Objections relating to the aforesaid opportunity to ballot petition; any written notification of a determination of non-compliance together with proof of service upon the committee to receive notices and/or contact person designated therein; any writing purporting to cure or correct said determination of non-compliance; the permanent personal voter registration poll records of voters, computer generated registration lists for the last four (4) years and official maps for Seneca County; the report of the Clerk(s) of the Board made on such objections and specifications; the minutes and proceedings of any meeting of Respondent Board of Elections made for the purpose of ruling upon Objections and/or Specifications of Objections filed by any person herein to the purported Opportunity to Ballot Petition of the Working Families Party; and such other records of Respondent Board of Elections as may relate to this matter for examination by this Court; and the records provided for in the annexed Order to Show Cause.

26. Petitioners have no adequate remedy at law.

27. No previous application has been made for the relief sought herein or for the Order to Show Cause hereto annexed, or for any similar relief.

WHEREFORE, Petitioners respectfully pray for a final Order and Judgment,

granting the relief requested in the Order to Show Cause, and for such other and further relief as this Court deems just and proper.

Dated: August 1, 2017
Pittsford, New York

A handwritten signature in black ink, appearing to read "G. Burger", written over a horizontal line.

Michael A. Burger
SANTIAGO BURGER LLP
Attorneys for Petitioners
1250 Pittsford Victor Rd.
Building 100, Suite 190
Pittsford, NY 14534
Tel.: (585) 563-2400

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

Exhibit 1

[REDACTED]

[REDACTED]

[REDACTED]